

Message Text

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ORIGIN L-03

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P R 021906Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY DAR ES SALAAM PRIORITY

INFO AMEMBASSY NAIROBI

AMCONSUL ZANZIBAR

USDEL MTN GENEVA

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GENEVA FOR USDEL

E.O. 11652: N/A

TAGS: EINV, ETRD, TZ

SUBJECT:COMPENSATION FOR EXPROPRIATED U.S. PROPERTY

REF: A) DAR ES SALAAM 487 (NOTAL); B) DAR ES SALAAM 219;
C) STATE 22833 (NOTAL); D) STATE 44938 (NOTAL)

1. DEPT APPRECIATES EMBASSY INITIATIVE INDEVELOPING
PROPOSAL TO RESOLVE CONVERTIBILITY PROBLEMS ARISING FROM
TANGOV COMPENSATION AGREEMENTS RELATING TO EXPROPRIATIONS.
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WE HAVE, HOWEVER, A NUMBER OF CONCERNS, AS SET OUT BELOW,

WHICH INCLINE US TO BE NEGATIVE ABOUT SOLUTIONS IN WHICH
USG WOULD IN EFFECT TAKE RESPONSIBILITY FOR CONVERTIBILITY
OF LOCAL CURRENCY. WE PERCEIVE OBJECTIONS AS FOLLOWS:

A) OUR AGREEMENT TO CONVERT SHILLINGS COULD ESTABLISH
UNDESIRABLE PRECEDENT IN WHICH USG WOULD BE PRESSURED
GENERALLY TO RESOLVE HOST COUNTRY'S CONVERTIBILITY PROBLEM
IN EXPROPRIATION CASES BY AGREEING TO CONVERT LOCAL CURREN-
CY PAYMENTS TO U.S. CITIZENS; THIS CONCERN IS ACCENTUATED
IN TANZANIA CONTEXT WHERE OTHER MAJOR EXPROPRIATIONS OF
AMERICANS' ASSETS REMAIN TO BE SETTLED, AND CONVERTIBILITY
FORMULA IN PRESENT CASE MIGHT READILY BE COPIED FOR
OTHERS, BUT CONCERN WOULD EXIST, IN ANY EVENT, AS OTHER
COUNTRIES MIGHT LEARN OF U.S. WILLINGNESS TO BUY UP LOCAL
CURRENCIES IN SUCH CASES AND ARGUE THAT IF WE WERE WILLING TO
DO IT FOR TANZANIA WE OUGHT TO BE WILLING FOR THEM.

B) U.S. COULD BE PRESSURED TO ACCEPT LARGER AMOUNTS OF
LOCAL CURRENCY THAN CURRENT NEEDS REQUIRED; ALTERNATIVELY,
LOCAL GOVERNMENT PAYMENT SCHEDULES GENERALLY MIGHT COME
TO BE PREMISED ON U.S. LOCAL CURRENCY EXPENDITURES,
STRINGING OUT PAYMENTS IN MAJOR CASES FAR BEYOND OUR
CONCEPTION OF "PROMPT COMPENSATION", BUT NONETHELESS
SERVING AS INSTRUMENT FOR ESTABLISHING REPAYMENT
SCHEDULE FOR LOCAL GOVERNMENTS, AND SERVING AS CONTINUING
PRESSURE ON U.S. FOR INCREASED LOCAL EXPENDITURES.
(PRESSURES DESCRIBED IN THIS PARAGRAPH WOULD BE ESPECIALLY
ACUTE WHERE A MAJOR EXPROPRIATION CASE WAS SINGLE MAJOR
BLOCK IN U.S.-LOCAL GOVERNMENT IMPROVED RELATIONS, AND
PRESSURES CAME FROM ALL SIDES TO REMOVE IT WITH A USG
ROLE. WHERE THIS NOT THE CASE, AS IN TANZANIA, PROBLEM
FACED WOULD BE AS DESCRIBED IN PARA C BELOW.)

C) IN EVENT WE RESIST ANY FURTHER PARTICIPATION IN
COMPENSATION SETTLEMENTS, USG BECOMES SUBJECT TO CRITI-
CISM OF TREATING ITS CITIZENS IN DISCRIMINATORY FASHION,
FAVORING SOME BY TAKING ON CONVERTIBILITY PROBLEM,
LEAVING OTHERS TO FEND FOR THEMSELVES AS BEST THEY CAN.
TO EXTENT THIS PROBLEM IS AVOIDED AN EQUALLY DIFFICULT
PROBLEM IS ASSUMED: DETERMINING A FORMULA FOR EQUITABLE
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TREATMENT OF U.S. CITIZEN CLAIMS TAKING INTO ACCOUNT
CLAIMS UPON WHICH AMOUNT HAS BEEN AGREED, CLAIMS CONTINU-
ING UNDER DISPUTE, AND METHOD FOR DEALING WITH NEW
CLAIMS ARISING FROM FUTURE EXPROPRIATIONS.

D) U.S. IS INTERJECTED INTO SETTLEMENT NEGOTIATION PROCESS
ITSELF, AS WE TAKE ON A ROLE WITH RESPECT TO A CRITICAL
ELEMENT OF SUCH SETTLEMENT; OUR PREFERRED POSITION IS

KEEP OUT OF COMPENSATION NEGOTIATIONS, LEAVING THEM TO
LOCAL GOVERNMENT AND COMPANY INVOLVED AS MUCH AS POSSIBLE.

2. EMBASSY REMINDED THAT SETTLEMENT CAPTAIN MAY'S CLAIM
WILL NOT AFFECT TANZANIA'S ELIGIBILITY FOR GSP, SINCE
APPLICABLE SECTION OF THE 1974 TRADE ACT REQUIRES COMPEN-
SATION IN CASES OF EXPROPRIATION IN WHICH U.S. CITIZENS
HAVE 50 PER CENT OR GREATER BENEFICIAL INTEREST, AND OUT-
STANDING CASES REMAIN TO BE SETTLED.

3. AS WE SEE IT, IN SUM, EMBASSY PROPOSAL POSES SERIOUS
PROBLEMS AS DESCRIBED PARA 1, AND IN ANY EVENT DOES NOT
SOLVE BASIC U.S.-TANGOV DIFFERENCES IN THIS AREA. IF
EMBASSY WISHES TO DIFFER WITH ANY OF ABOVE ASSESSMENT,
DEPT WILL, OF COURSE, BE PREPARED TO TAKE ITS VIEWS INTO
ACCOUNT IN FURTHER EXAMINATION OF PROPOSAL. INGERSOLL

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